

REMARKS

The Applicants have carefully considered the outstanding Office Action which was mailed July 24, 2007, and in view of the position enunciated by the Examiner, the Claims have been substantially amended. In addition to these amendments, the Applicants have also provided an extensive argument distinguishing the present invention from the cited references upon which the Examiner has relied. The Applicants' respectfully request the Examiner's careful consideration of the foregoing Amendment and the arguments presented herein, since the Applicants believe that this response places all of the pending claims in condition for allowance.

In amended Claim 1 of the presently pending patent application, the Applicants have now defined the hair styling and conditioning gel of the present invention as specifically comprising "shear thickening properties enabling the viscosity of the gel to increase with an increasing shear rate". As fully detailed throughout the specification, this attribute is particularly unique and is virtually unknown in prior art hairstyling and conditioning gels. In addition to specifically defining this unique and previously unknown physical characteristic in a hairstyling and conditioning gel, amended Claim 1 also specifically defines the ingredients which the Applicants have discovered are

capable of being combined in order to achieve the unique formulation of the present invention as well as the quantity of each material.

As further detailed herein, the Applicants maintain that no prior art references, whether considered individually or in combination, provide any teaching or suggestion that the specific ingredients defined in Claim 1 are capable of being combined to form a hairstyling and conditioning gel which provides a shear thickening property enabling a hairstyling gel to achieve increased viscosity when exposed to an increasing shear rate. As a result, the Applicants maintain that Claim 1, as now amended, unequivocally distinguishes the prior art references upon which the Examiner has relied.

In the outstanding Office Action, the Examiner rejected Claim 1 under 35 USC Section 103(a), based upon U.S. Patent 6,297,203 in combination with the Technical Bulletin issued by AKZO NOBEL. In this rejection, the Examiner admits that Patent 6,297,203 merely teaches the use of cocamidopropyl betaine in a hairstyling composition without any teaching or suggestion regarding the inclusion of PPG-14 Palmeth-60 Hexyl Dicarbamate, the second required ingredient in Applicants' unique hairstyling and conditioning gel. In attempting to overcome this deficiency, the Examiner relies upon the Technical Bulletin issued by the manufacturer of Elfacos T212, the precise material employed by the Applicant in its hairstyling and conditioning gel. In fact, the

Applicants have fully disclosed the use of this material in the outstanding specification, as well as the source of the material as being AKZO NOBEL.

The Examiner's entire argument is predicated on the existence of Elfacos T212 for use in personal care formulations and effectively asserts that since this material exists, it would be obvious to one having ordinary skill in the art to combine the material with the cocamidopropyl betaine taught in patent '203. For the reasons detailed herein, the Applicants maintain that this rejection is unsupportable.

First of all, patent '203 teaches a styling shampoo incorporating a plurality of ingredients. The Examiner, without comment and without any realistic basis, has selected one of the numerous ingredients from the teaching of this prior art reference for being combined with a totally different and unrelated ingredient, which is not in any way equivalent to the compounds defined in the cited patent. Furthermore, there is no teaching or suggestion in the cited patent or in the cited Technical Bulletin which would lead one having ordinary skill in the art to combine the two components as asserted by the Examiner and, in addition, no suggestion regarding the quantity of each material to employ.

There can be no doubt that this rejection is merely based upon the Examiner's use of the teaching of the present invention to seek out specific compounds from prior art references, cite these references, and assert that the combination is obvious. This

hindsight reconstruction is unsupportable by the case law and cannot be upheld as a realistic basis for rejecting the Applicants' invention.

Furthermore, and of most significance, is the fact that the Applicants have discovered that the combination of these two ingredients provide a hairstyling and conditioning gel which comprises a unique, unobvious and unanticipated physical property. This unique attribute is the shear thickening property which enables the viscosity of the gel to increase with an increasing shear rate. The references cited by the Examiner, as well as any other existing reference found in the art, fail to teach or suggest the achievement of this unique physical property from the combination of the two specific ingredients defined in Claim 1.

In fact, the Technical Bulletin relating to Elfacos T212 teaches the use of this composition for providing Newtonian flow to the components with which it is combined. In accordance with the present invention, the combination of ingredients achieves a hairstyling and conditioning gel which possesses non-Newtonian flow characteristics and is therefore directly contrary to the teaching of the cited literature upon which the Examiner has relied. As a result, the Applicants maintain that Claim 1, as now amended, to specifically include the shear thickening property achieved by the present invention, clearly and unequivocally distinguishes the prior art references cited by the Examiner and places Claim 1 in condition for allowance.

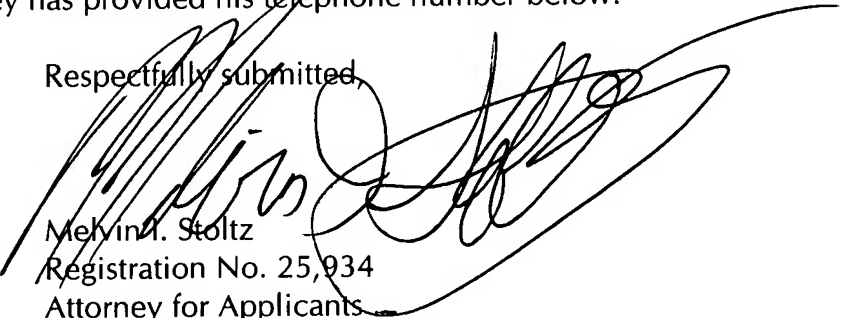
Claims 2-5 and 7 are all dependent on Claim 1 and add novel combinations thereto. For this reason, as well as the reasons detailed above in reference to Claim 1, the Applicants maintain that these dependent claims are also in condition for allowance.

Furthermore, in regard to the Examiner's objections to the terms "vinyl pyrrolidone polymer" and "vinyl pyrrolidone terpolymer", the Applicants have amended Claim 4 to specifically define the component intended by the present disclosure. In this regard, the Applicants use of the term vinyl pyrrolidone polymer is clearly understood by those having ordinary skill in this art to specifically refer to "PVP" or "polyvinyl pyrrolidone". As a result, the term "polyvinyl pyrrolidone" has been added to Claim 4 as a known equivalent to the term "vinyl pyrrolidone polymer. In addition, Claim 6 has been canceled. As a result, the Applicants believe that remaining Claims 2 and 4, as now amended, are in condition for allowance.

Based upon the foregoing amendment and the arguments set out herein, the Applicants believe that the pending claims are now all in condition for allowance and an early notice of allowability is earnestly solicited. If any questions remain which may be resolved in a telephone interview, Applicants' undersigned Attorney would gladly

discuss such issues with the Examiner at the Examiner's convenience. For this purpose, Applicants' undersigned Attorney has provided his telephone number below.

Respectfully submitted,



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